



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE

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M-96-01

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M E M O R A N D U M

TO: Interested Persons

FROM: Michael J. Sullivan, Director *MJS*

SUBJECT: Settlement of Debts

This memorandum provides guidelines for candidates and political committees which settle debts owed to corporate or other creditors for less than the amount owed. Regulations issued by this office specify that a candidate or committee may enter into an agreement with a creditor to settle such debts if a Statement of Settlement is filed with this office documenting compliance with the regulation. See 970 CMR 1.03, a copy of which is attached for information.

When documenting settlement of debts, candidates and political committees should use Form CPF S1, Statement of Settlement. The Statement should be used to reflect settlement of debts with both corporate and noncorporate creditors. The form, which may be reproduced, is attached to this Memorandum.

A completed Statement of Settlement must be filed within thirty days of any settlement of a liability for less than the amount owed. Since a committee with existing liabilities may not dissolve and remains subject to the campaign finance law until all debts are paid or settled, the timely filing of a Statement of Settlement is especially important when committees are in the process of winding down their activities.

The form is designed to ensure adherence with the regulation. In particular, completion of the form reflects the settlement of a debt or debts "in a commercially reasonable manner." Each requirement demonstrating such settlement is listed on the settlement form, e.g., that credit was extended in the ordinary course of business and that the committee has made commercially reasonable efforts to satisfy the debt. The form must be signed by the creditor, the candidate, if credit was extended to a candidate committee, and the treasurer of the committee.

The form is not to be used to reflect settlement of personal loans made by a candidate to the candidate's

committee. Such loans should be settled and documented with the filing of a letter of explanation by the candidate.

Please note that a committee's obligation to a creditor continues even after a creditor files for bankruptcy protection. Once a bankruptcy case is opened, payment should be made to the trustee rather than the vendor. A committee may not "write a debt off" simply because the committee has not been contacted by the trustee who is handling the bankruptcy case at issue. See AO-94-13.

For further information and guidance with respect to this memorandum, please contact OCPF.

970 CPR 1.03: Debts.

(1) **Corporate Debts.** Corporate debts for goods and services may not be settled for less than the amount owed unless both the business corporation and political committee treat the debt in a commercially reasonable manner. 970 CMR 1.03 shall not apply to a debt which is the subject of a dispute between a political committee and a creditor involving questions of satisfactory delivery of goods or services, or the amount owed. In order for a settlement of such a debt to occur all of the following requirements must be met:

(a) Credit was extended in the ordinary course of business similar to terms granted to other political and non-political debtors.

(b) The committee has made commercially reasonable efforts to satisfy the debt.

(c) The creditor has pursued remedies to seek payment in the same manner it normally takes against debtors in a financial condition similar to the committee.

(d) The settlement is similar to others the creditor has made with other debtors, and similar to settlements the committee has proposed to its other creditors.

(e) The length of time prior to settlement is consistent with normal business and trade practice.

(f) A political committee or candidate must file with this office a Statement of Settlement, which is subject to review, within 30 days of any such settlement. All Statements of Settlement must be signed by the Treasurer and Candidate of the political committee, and a duly authorized agent of the corporation.

(2) **Noncorporate Debts.** Debts to individuals or unincorporated proprietors may be settled for less than the amount owed in the same manner as provided in 970 CMR 1.03(1), or by meeting all of the following requirements:

(a) The amount forgiven when considered together with amounts contributed from the same individual, is no more than the amount said individual may contribute in accordance with M.G.L. c. 55 or this title.

(b) The political committee must report any debt which is forgiven as an in-kind contribution.



Commonwealth
of Massachusetts

Form CPF S 1: STATEMENT OF SETTLEMENT Office of Campaign and Political Finance

File with: Director
Office of Campaign and Political Finance
One Ashburton Place
Boston, MA 02108
(617) 727-8352

CPF ID# _____

**Please print or type all information, except signatures
One form should be filed for debts settled with each creditor**

Candidate's Name: _____

Treasurer's Name: _____
(if applicable)

Committee Name: _____
(if applicable)

In settling the debts noted below, I/we certify:

1. All liabilities of the candidate and/or the political committee, listed below, have been settled in accordance with 970 CMR 1.03:

<u>Date Incurred</u>	<u>To Whom Due</u>	<u>Amount</u>	<u>Date of Settlement</u>
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2. At the time the liability was incurred, I/we intended that the candidate/committee would pay in full for the goods or services rendered.

3. For debts to corporations:

- the credit was extended in the ordinary course of business on terms similar to those granted to other political and non-political debtors;
- the candidate and/or political committee has made commercially reasonable efforts to satisfy the debt;
- the creditor has pursued remedies to seek payment in the manner it normally takes against debtors in a financial condition similar to this candidate/political committee;
- the settlement is similar to others the creditor has made with other debtors, and similar to settlements the candidate/committee has proposed to its other creditors;
- the length of time prior to settlement is consistent with normal business and trade practice;
- the debt is not the subject of a dispute between the candidate/committee and the creditor involving questions of satisfactory delivery of goods or services, or the amount owed;
- the goods or services provided by the creditor and/or the extension of credit were not intended by the creditor to be an in-kind contribution to the candidate/committee.